U.S. DISTRICT COURT, EASTERN DISTRICT OF WASHINGTON

Summary of Amendments to the Local Rules

■Effective February 1, 2013

Amendment to:

LR 7.1 Motion Practice

This revised rule –

•Requires a single pleading to encompass what used to be three separate pleadings; the motion, the memorandum and the notice of hearing. Rule 7.1(a)(2);

•Allows motions to be supported by affidavits and declarations as appropriate. Rule 7.1(a) and (g);

•Establishes deadlines for filing responses and replies, irrespective of the method of service. Rule 7.1(b) and (c);

•Explains how to calculate the page limitations. Rule 7.1(e)(3);

•Clarifies the citation to unpublished decisions. Rule 7.1(f);

•Allows a single pleading to seek an expedited hearing. Rule 7.1(h)(2)(C); and

•Clarifies the procedures to set a motion for hearing; with argument, without oral argument and telephonically. Rule 7.1(h)(3).

■Effective July 25, 2011

Amendment to:

LR 10.1(a)

Subsection (4) was added:

(4) Citations to documents in the record, including declarations, exhibits, and any documents previously filed, shall include a citation

to the electronic case filing (ECF) record number and the page number within that ECF record, and shall be in the following format, "ECF No. ___ at __ ." (Example: ECF No. 24 at 2.)

■**Effective July 1, 2010**

Amendments to:

LR 3.2(e)(3)	RICO Case Statement
LR 10.1(g)	Format of Documents Submitted for Filing
LR 32.1(d)	Depositions at Trial
LR 54.1(a)	Cost Bills
LR 69.1	Execution and Supplemental Examination of Judgment Debtors

■**Subsection (3) of LR 3.2 RICO Case Statement** is amended to reconcile the rule with FRCP language. Not a substantive change.

(3) If the RICO claim is based on the predicate offenses of wire fraud, mail fraud, or fraud in the sale of securities, the "party must state with particularity the circumstances constituting fraud or mistake ~~circumstances constituting fraud or mistake shall be stated with particularity~~." FED. R. CIV. P. 9(b). Identify time, place and contents of the alleged misrepresentations, and the identity of persons to whom and by whom the alleged misrepresentations were made;

■ **LR 10.1(g) General Format of Documents Presented for Filing**. The signature block is updated. Not a substantive change.

(g) Any document requiring the signature of the Court shall provide as follows:

"Dated this ___ day of _____, 20__ ~~200–~~.

_____

United States District Judge"

and the signature page shall include a portion of the text of the document.

■ **LR 32.1(d) Use of Depositions at Trial**. The rule is amended to reconcile with FRCP 30(b)(5). No substantive change.

(d) **Videotaping Deposition Procedure**

In addition to the requirements set forth in Federal Rule of Civil Procedure 30(b)(5)(A), the officer must begin the deposition with an on-the-record statement that includes 1) the caption of the case and 2) the party on whose behalf the deposition is being taken. After these preliminary requirements, the officer shall swear the witness on camera. If more than one tape is used to record the deposition, the officer shall make an on-camera announcement for the end of each tape and the beginning of each subsequent tape. ~~The deposition shall begin by the operator stating on camera (1) his name and address, (2) the name and address of his employer, (3) the date, time and place of the deposition, (4) the caption of the case, (5) the name of the witness, and (6) the party on whose behalf the deposition is being taken. The officer before whom the deposition is taken shall then identify himself and swear the witness on camera. At the conclusion of the deposition the operator shall state on camera that the deposition is concluded. When the length of the deposition requires the use of more than one tape, the end of each tape and the beginning of each succeeding tape shall be announced on camera by the operator.~~

■ **LR 54.1** Cost Bills. The rule is amended to reconcile the conflict between LR 54.1 and FRCP 54(d)(1).

(a) **Verified Bill—Time for Serving**

The party in whose favor a judgment is rendered, and who is entitled to claim his/her costs, shall within 14 days after the entry of judgment, serve on the attorney for the adverse party and file with the Clerk of the Court a verified bill of costs on a form which will be furnished by the Clerk of the Court upon request. Attached to the bill of costs shall be a statement of notice to the adverse party specifying the date when such costs will be taxed, which shall not be less than 14 ~~7~~ days from the date of service of the notice.

■ **LR 69.1 Execution and Supplemental Examination of Judgment Debtors.** The rule is amended so it is not inconsistent with FRCP 69(a).

LR 69.1

EXECUTION AND
SUPPLEMENTAL EXAMINATION OF
JUDGMENT DEBTORS

~~Supplemental proceedings for the examination of judgment debtors shall be without the intervention of the court by written interrogatories to the judgment debtor or by personal examination of the judgment debtor as to assets to be conducted in accordance with FED. R. CIV. P. 30 and 31.~~

~~In the event the judgment debtor does not fully or timely respond to such written or oral examination, the judgment creditor may apply to a Magistrate Judge of this district for an Order directing the judgment debtor to appear for examination before the Magistrate Judge. Supplemental examination of a judgment debtor shall not be conducted more often than once every six months.~~

Supplemental proceedings shall generally be conducted without the intervention of the Court, and the judgment creditor may use such discovery tools or procedures as may be available under the Federal Rules of Civil Procedure, the Washington State Rules of Civil Procedure, or the laws of the State of Washington. To the extent a judgment debtor, or any other person, fails to properly respond to any discovery properly served under the applicable law or rule(s), the judgment creditor may, after complying with CR 37(d), apply to a Magistrate Judge for an order directing such debtor or other person to appear for examination.

■**Effective January 11, 2010**

Amendments to:

LR 7.1(c) and (d) and addition of (i)

LR 17.1(c)
LR 55.1
LR 83.2(d)

Language underlined is to be added and language lined through is to be deleted.

■**Subsections (c) and (d) of LR 7.1 Motion Practice** are amended to include new response and reply deadlines adopted by the Court for dispositive motions. The opposing party will have 21 days to respond and the moving party will have 14 days to reply.

(Amended Rule – Clean Version)

(c) **Responsive Memorandum**

(1) Civil cases. The opposing party shall, after service, unless otherwise ordered by the Court, have 14 days for nondispositive motions and 21 days for dispositive motions (motion to dismiss or motion for summary judgment) within which to serve and file a responsive memorandum.

If the opposing party is a civil pro se litigant, the civil pro se litigant shall have 30 days, after the date the dispositive motion was mailed as noted on the certificate of mailing, within which to serve and file a responsive memorandum to the dispositive motion.

(Note: Summary Judgment is also discussed in LR 56.1)

(2) Criminal cases. The opposing party shall, after service, unless otherwise ordered by the Court, have 7 days within which to serve and file a responsive memorandum.

(d) **Reply Memorandum**

(1) Nondispositive motions: If no party is pro se, the moving party, unless otherwise ordered by the Court, shall have 7 days after service of the responsive memorandum to file a reply memorandum. If one of the parties is pro se, then the moving party shall have 14 days after service of a responsive memorandum to file a reply memorandum.

(2) Dispositive motions (motion to dismiss or motion for summary judgment): The moving party, unless otherwise ordered by the Court, shall have 14 days after service of the responsive memorandum to file a reply memorandum.

Marked Changes to LR 7.1(c) and (d)

(c) **Responsive Memorandum**

(1) Civil cases. The opposing party shall, after service, unless otherwise ordered by the Court, have 14 days for nondispositive motions and 21 days for dispositive motions (motion to dismiss or motion for summary judgment) ~~in a civil case and 7 days in a criminal case,~~ within which to serve and file a responsive memorandum. If the opposing party is a civil pro se litigant, the civil pro se litigant shall have 30 days, after the date the dispositive motion was mailed as noted on the certificate of mailing, within which to serve and file a responsive memorandum to the dispositive motion. *(Note: Summary Judgment is also discussed in LR 56.1)*

(2) Criminal cases. The opposing party shall, after service, unless otherwise ordered by the Court, have 7 days within which to serve and file a responsive memorandum.

(d) **Reply Memorandum**

(1) Nondispositive motions: If no party is pro se, the moving party, unless otherwise ordered by the Court, shall have 7 days after service of the responsive memorandum to file a reply memorandum. If one of the parties is pro se, then the moving party shall have 14 days after service of a responsive memorandum to file a reply memorandum.

(2) Dispositive motions (motion to dismiss or motion for summary judgment): The moving party, unless otherwise ordered by the Court, shall have 14 days after service of the responsive memorandum to file a reply memorandum.

■ **LR 7.1(i) Status of Pending Motions**. The Court attempts to rule on pending motions within 30 days. The proposed new subsection to LR 7.1, Motion Practice, incorporates a process for parties to inquire when an order has not been received 30 days after the motion has been heard and submitted.

(i) Status of Pending Motions

The Court attempts to rule on any pending motions within 30 days. If the parties have not received an Order within 30 days after the motion has been heard and submitted, the parties are encouraged to contact the courtroom deputy to inquire as to the status.

■ **LR 17.1(c) Claims of Minors and Incompetents and Disposition of Funds**. Pursuant to LR 17.1(c), the allowance of all fees and costs incident to the settlement of a minor's claim are considered and disposed of by the Court. The language "in its discretion" is added for clarification, and language is removed stating that attorney's fees shall not exceed 25% of the net recovery except in unusual circumstances.

(c) **Hearing and Calculation of Fee**

At the time the petition for approval of the settlement is heard, the allowance and taxation of all fees, costs, and other charges incident to the settlement of the minor's claim shall be considered and disposed of by the Court in its discretion.

~~It is the policy of this Court that a contingent attorney fee be calculated on the net recovery after deduction of all costs. Except in unusual circumstances, attorney's fees shall not exceed twenty-five percent (25%) of the net recovery.~~ In the case of a structured settlement or annuity, the fee shall be based on the actual cost of the annuity, the cost of which may be disclosed *in camera* upon request.

LR 55.1, Defaults, has been rewritten to provide clarification. The amended rule clarifies that obtaining a default judgment is a two-step process, the distinction between an Entry of Default and a Default Judgment, that the Clerk enters default and no notice of hearing is required, and the need to attach a written notice of intention to move for default.

(Amended Rule – Clean Version)

LR 55.1
DEFAULTS

Under FED. R. CIV. P. 55, obtaining a default judgment in federal court is a

two-step process: (1) entry of default and (2) entry of default judgment. A party must first file a motion for entry of default, obtain a Clerk's Order of Default, and then file a separate motion for default judgment.

(a) Motion for Entry of Default

Under federal practice the Clerk enters orders of default without action by the Judge. Upon motion by a party and supported by affidavit, the Clerk shall enter the default of any party against whom a judgment for affirmative relief is sought but who has failed to plead or otherwise defend.

(1) Notice Required. Written notice of the intention to move for entry of default must be provided to counsel, or if counsel is unknown, to the party against whom default is sought. Such notice shall be given at least 14 days prior to the filing of the motion for entry of default. If notice cannot be provided because the identity of counsel or whereabouts of a party are unknown, the moving party shall inform the Clerk in the affidavit.

(2) Affidavit Required. The moving party must show: (a) that proper notice of the intention to seek an entry of default has been given; and (b) that the party against whom default is sought was properly served with the summons and complaint in a manner authorized by FED. R. CIV. P. 4.

(3) No Notice of Hearing Required. The Clerk will note the motion for entry of default the day it is filed. No notice of hearing is to be filed.

(b) Motion for Entry of Judgment by Default

No motion for judgment by default shall be filed unless an order of default has been entered by the Clerk.

(1) Affidavit Required. When a motion is made for a default judgment, the motion shall be supported by an affidavit in compliance with Fed. R. Civ. P. 55(b). The affidavit shall also:

a. Specify whether the party against whom judgment is sought is an infant or an incompetent person, and if so, whether that person is represented by a general guardian,

committee, conservator or other representative;

b. Attest that the Servicemembers Civil Relief Act of 2003 does not apply;

c. Attest that written notice of the motion has been served on the defaulting party, if required by Fed. R. Civ. P. 55(b)(2); and

d. Attest that the costs sought to be taxed have been incurred or will necessarily be incurred.

(2) Notice of Hearing. Motions for default judgment shall be noted for hearing in accordance with LR 7.1(h)(1).

Notwithstanding the provisions of FED. R. CIV. P. 55(b)(l), the Clerk may refer any application for entry of default judgment to the Court for review prior to formal entry.

Marked Changes to LR 55.1

LR 55.1
DEFAULTS

Under FED. R. CIV. P. 55, obtaining a default judgment in federal court is a two-step process: (1) entry of default and (2) entry of default judgment. A party must first file a motion for entry of default, obtain a Clerk's Order of Default, and then file a separate motion for default judgment.

(a) **Motion for Entry of Default**

Under federal practice the Clerk enters orders of default~~s~~ without action by the Judge. Upon motion by a party and supported by affidavit, the Clerk shall enter the default of any party against whom a judgment for affirmative relief is sought but who has failed to plead or otherwise defend. ~~Where a party has appeared but is in default, the Clerk, upon proof of 14 days' written notice to the party in default by the moving party, may enter a default. Where a party has not appeared but the identity of that party's counsel or the whereabouts of that party is known to the moving party, the 14-day written notice shall be given to the attorney or party by the moving party. Any party so served may respond to the pleading or~~

~~otherwise defend at any time before the presentment. If the identity of counsel for the non-appearing party and the whereabouts of the non-appearing party are unknown to the moving party, an affidavit so stating shall be filed with the motion. A default order or judgment entered by the Clerk under this rule is subject to review pursuant to FED. R. CIV. P. 55(c).~~

(1) Notice Required. Written notice of the intention to move for entry of default must be provided to counsel, or if counsel is unknown, to the party against whom default is sought. Such notice shall be given at least 14 days prior to the filing of the motion for entry of default. If notice cannot be provided because the identity of counsel or whereabouts of a party are unknown, the moving party shall inform the Clerk in the affidavit.

(2) Affidavit Required. The moving party must show: (a) that proper notice of the intention to seek an entry default has been given; and (b) that the party against whom default is sought was properly served with the summons and complaint in a manner authorized by FED. R. CIV. P. 4.

(3) No Notice of Hearing Required. The Clerk will note the motion for entry of default the day it is filed. No notice of hearing is to be filed.

(b) **Motion for Entry of Judgment by Default**

No motion for judgment by default shall be filed unless an order of default has been entered by the Clerk.

(1) Affidavit Required. When a motion is made for default judgment, the motion shall be supported by an affidavit in compliance with Fed.R.Civ.P. 55(b). ~~A party entitled to have the Clerk enter judgment pursuant to FED. R. CIV. P. 55(b)(1) shall file an affidavit showing the principal amount due, which shall not exceed the amount demanded in the complaint, giving credit for any payments and showing the amounts and dates thereof, a computation of interest to the date of judgment, and costs and taxable disbursements claimed; t~~ The affidavit shall also ~~further state that~~:

(~~1~~a) Specify whether the party against whom judgment is sought is ~~not~~ an infant or an incompetent person, and if

so, whether that person is represented by a general guardian, committee, conservator or other representative;

b. Attest that ~~and is not protected by~~ the Servicemembers Civil Relief Act of 2003 does not apply;

~~(2) A default has theretofore been entered by the Clerk;~~

c. Attest that written notice of the motion has been served on the defaulting party, if required by Fed.R.Civ.P. 55(b)(2); and

(~~3~~d) Attest that the costs ~~disbursements~~ sought to be taxed have been ~~made in the action, or will necessarily be made or~~ incurred or will necessarily be incurred ~~therein~~.

(2) Notice of Hearing. Motions for default judgment shall be noted for hearing in accordance with LR 7.1(h)(1).

Notwithstanding the provisions of FED. R. CIV. P. 55(b)(l), the Clerk may refer any application for entry of default judgment to the Court for review prior to formal entry.

■ **LR 83.2, Bar Admission and Appearance(s) in a Case** has been amended for clarification and to provide a more streamlined manner of permitting withdrawal when an attorney wants to withdraw and another attorney in the same firm remains as counsel.

(Amended Rule – Clean Version)

LR 83.2

(d) **Appearances, Withdrawal and Substitution**

(1) **Appearances and Changes to Attorney's Address.** An appearance may be made by filing a formal notice of appearance. Alternatively, the filing of any document shall constitute an appearance by the attorney who signs it.

Once an attorney has appeared in a case, the attorney must promptly

file a notice of change of address if there is a change in the attorney's mailing address, business e-mail address, telephone, or fax number. The attorney must also update his/her CM/ECF User Account.

(2) **A Party having Appeared by an Attorney.** A party having appeared by an attorney cannot appear *pro se* or otherwise act except through the attorney, unless a motion has been filed and properly served and an order of substitution is entered by the Court.

(3) **Withdrawal and Substitution of Counsel Within Same Law Firm.** Where there has simply been a change (withdrawal or addition) of counsel within the same law firm, an order of substitution is not required; the new attorney will file a Notice of Appearance and/or the withdrawing attorney will file a Notice of Withdrawal. However, where there is a change in counsel that affects a termination of one law office and the appearance of a new law office, leave of Court is required and a motion for leave to withdraw shall be filed. The motion shall demonstrate good cause and shall be governed by LR 7.1.

(4) **Withdrawal – Court Approval Required.** An attorney must obtain leave of Court if his/her withdrawal leaves the party unrepresented or without local counsel. A motion for leave to withdraw must be filed and served on the client and opposing counsel. The motion shall demonstrate good cause and shall be governed by LR 7.1.

(5) **Death, Removal, Suspension, or Inaction of Attorney**. When an attorney dies, is removed or suspended, or ceases to act, the party, unless already represented by another attorney, must designate a new attorney or file a *pro se* notice of appearance before further proceedings occur.

(6) **Attorney's Authority and Duty Shall Continue.** The authority and duty of attorneys of record shall continue after final judgment for all proper purposes.

(Amended Rule with Marked Changes)

(d) **Appearances, Withdrawal and Substitution**

(1) An appearance may be made by filing a formal notice of appearance. Alternatively, the filing of any ~~pleading~~ document shall constitute an appearance by the attorney who signs ~~the pleading~~ it.

Once an attorney has appeared in a case, the attorney must promptly ~~notify the Court in writing of a change in address, phone~~ file a notice of change of address if there is a change in the attorney's mailing address, business e-mail address, telephone, or fax number. The attorney must also update his/her CM/ECF User Account.

(2) A party having appeared by an attorney ~~may not thereafter appear or act pro se in the cause~~ cannot appear *pro se* or otherwise act except through the attorney, unless a motion has been filed and properly served and an order of substitution ~~shall first have been made~~ is entered by the Court~~. after notice to the attorney then of record of such party and to other parties. .~~

(3) **Withdrawal and Substitution of Counsel Within Same Law Firm.** Where there has simply been a change (withdrawal or addition) of counsel within the same law firm, an order of substitution is not required; the new attorney will file a Notice of Appearance and/or the withdrawing attorney will file a Notice of Withdrawal. However, where there is a change in counsel that affects a termination of one law office and the appearance of a new law office, leave of court is required and a motion for leave to withdraw shall be filed. The motion shall demonstrate good cause and shall be governed by LR 7.1.

(4) **Withdrawal – Court Approval Required.** An attorney must obtain leave of Court if his/her withdrawal leaves the party unrepresented or without local counsel. A motion for leave to withdraw must be filed and served on the client and opposing counsel. The motion shall demonstrate good cause and shall be governed by LR 7.1. ~~(5) No attorney shall withdraw his or her appearance in any cause, except by leave of court, after notice served on his client and opposing counsel. A motion for leave to withdraw shall demonstrate good~~

~~cause and shall be governed by LR 7.1.~~

(5) **Death, Removal, Suspension, or Inaction of Attorney**. When an attorney dies, is removed or suspended, or ceases to act, the party, unless already represented by another attorney, must designate a new attorney or file a *pro se* notice of appearance before further proceedings occur. ~~(3) When an attorney having appeared in a cause is removed, withdraws, dies or otherwise ceases to act as such, a party for whom he or she was acting as attorney must, before any further proceedings are had in the action on that party's behalf, appoint another attorney or file a statement of appearance pro se, unless such party is already represented by another attorney.~~

(~~4~~6) The authority and duty of attorneys of record shall ~~continue until withdrawal is approved by the Court or there shall be substitution of another attorney of record, and shall~~ continue after final judgment for all proper purposes.

■**Effective December 1, 2009**

Amendments to:

LR 5.1(a)
LR 7.1
LR 83.2 *(Title amended only)*
And, to conform to new Federal Rule time computations, the following rules have new time-lines –
LR 3.2
LR 7.1(c) and (d)
LR 16.1(a) and (b)
LR 16.2(c)(2)(a)(3)
LR 26.1
LR 32.1
LR 37.1(b) and (c)
LR 47.1(a)
LR 51.1(c)
LR 54.1(a) and (e)
LR 55.1(a)
LR 66.1(a)
LMR 3(b)
LMR 4(c)
LMR 11(a) and (c) and (d)

LR 5.1(a) Service on Judge, is amended to eliminate the requirement for paper filers (pro se litigants) to provide a duplicate copy to the judge. A courtesy paper copy for the judge is still required for all documents, including exhibits, over 100 pages in length.

a) Service on Judge
~~Documents filed electronically on the Court's electronic filing system:~~

~~If documents are filed electronically,~~ [T]he Court's electronic filing system provides automatic notice <u>*of all filings*</u> to the judge. For documents, including

exhibits, over 100 pages in length, a courtesy paper copy for the judge must be filed with the Clerk. The courtesy paper copy shall be clearly marked, "Judge's Courtesy Copy of Electronic Filing," and must be three-hole punched and tabbed (if applicable).

~~For paper documents filed: On or before the date required by these Rules or by Order of the Court for the filing of briefs, memoranda of authorities, forms of pretrial orders (or memoranda pertaining thereto), requested instructions to the jury, suggested questions for voir dire examination of the jury, proposed findings of fact and conclusions of law, and motions (including affidavits and exhibits in support of motions), a duplicate copy of all such documents filed on paper shall be provided to the judge before whom the case is pending. Service may be made by leaving such copy with the Clerk."~~

LR 7.1(h) Hearing on Motions, is amended to clarify the steps that moving or responding counsel take in order to set a motion for hearing. To provide clarification, headings have been added and redundant and unclear language eliminated.

> *Note: The current LR 7.1(e) now serves no purpose given the clarifications made to LR 7.1(h). The current LR 7.1(h)(5), which is not relevant to "Hearing on Motions," has been moved to LR 7.1(e).*

(Clean version of amended LR 7.1(h) is shown below)

(h) **Hearing on Motions**

(1) Notice of Hearing: Any party filing a motion shall also file as a separate document a Notice of Hearing setting the date, time, and place for the hearing on the motion.

(2) Time Requirements:

a. Nondispositive motions: the date of the hearing must be at least 30 days after the motion's filing.

b. Dispositive motions (motion to dismiss or motion for summary judgment): the date of the hearing must be at

least 50 days after the motion's filing.

c. Expedited Hearing: The Court sua sponte or on the separately-filed written motion of any party may waive this rule's time requirements and grant an immediate hearing on any emergency matter. The memorandum in support of the motion for expedited hearing shall set forth in detail the reasons for an expedited hearing.

d. These time requirements may be altered by the Court upon a motion showing good cause.

(3) Obtaining a Hearing Date, Time, and Place

a. Without oral argument: a motion to be heard without oral argument can be set on any weekday on or after the date calculated in LR 7.1(h)(2). *(See ECF Administrative Procedures re time/place for motions without oral.)*

b. With oral argument:

i. To obtain an oral argument hearing date (on or after the date calculated in LR 7.1(h)(2)), time, and place, the pro se party or counsel shall 1) contact the opposing party/counsel to develop a list of mutually-agreeable hearing dates, times, and places, and then 2) contact the presiding judge's courtroom deputy to determine an available hearing date, time, and place. Telephonic argument may be requested, but the pro se party or counsel should consult the presiding judge's courtroom deputy to determine the telephonic argument policy.

ii. The obtained hearing date, time, and place are then inserted in 1) the separately-filed Notice of Hearing and 2) the motion's caption.

iii. If the moving party does not elect oral argument, the opposing party may elect oral argument by inserting the obtained hearing date, time, and place

in 1) the text of the new Notice of Hearing filed by the opposing party (with a notation that the previously-without-oral-argument hearing is now with oral argument) and 2) the response's caption.

iv. Notwithstanding the foregoing procedure, the Court has the discretion to notify the parties that oral argument is not warranted and proceed to determine any motion without oral argument.

v. Unless specially ordered, not more than fifteen (15) minutes shall be allowed for each party for oral argument on any motion.

c. If oral argument is not elected, oral argument is waived absent a motion and good cause shown.

Proposed 7.1(h) ***Marked Changes are shown below***

(h) **Hearing on Motions**

(1) Notice of Hearing: Any party filing a motion shall also file as a separate document a Notice of Hearing ~~a notice~~ setting the ~~time,~~ date, time, and place for the ~~a~~ hearing on the ~~a~~ motion. ~~For nondispositive motions, the date of the hearing is at least thirty (30) days after filing the motion. If the motion is for dismissal or summary judgment, that is, dispositive, the date of the hearing is at least fifty (50) days after filing of the motion. These deadlines may be altered by the court upon a showing of good cause and order of the court. If the movant requests oral argument, movant's counsel shall consult with opposing counsel and the presiding judge's courtroom deputy to determine an available hearing date (on or after the date calculated above) and time. Telephonic argument may be requested by out-of-town counsel, but counsel should consult the presiding judge's courtroom deputy to determine the judge's telephonic argument policy. If the movant does not request oral argument, but the opposing party later does, then the opposing party's counsel shall consult with movant's counsel and the presiding judge's courtroom deputy to determine an available hearing date (on or after the date calculated~~

~~above) and time~~.

(2) Time Requirements:

a. Nondispositive motions: the date of the hearing must be at least thirty (30) days after the motion's filing.

b. Dispositive motions (motion to dismiss or motion for summary judgment): the date of the hearing must be at least fifty (50) days after the motion's filing.

c. Expedited Hearing: The Court sua sponte or on the separately-filed written motion of any party may waive this rule's time requirements and grant an immediate hearing on any emergency matter. The memorandum in support of the motion for expedited hearing shall set forth in detail the reasons for an expedited hearing

d. These time requirements may be altered by the Court upon a motion showing good cause.

(3) Obtaining a Hearing Date, Time, and Place

a. Without oral argument: a motion to be heard without oral argument can be set on any weekday on or after the date calculated in LR 7.1(h)(2).

b. With oral argument:

i. To obtain an oral argument hearing date (on or after the date calculated in LR 7.1(h)(2)), time, and place, the pro se party or counsel shall 1) contact the opposing party/counsel to develop a list of mutually-agreeable hearing dates, times, and places, and then 2) contact the presiding judge's courtroom deputy to determine an available hearing date, time, and place. Telephonic argument may be requested, but the pro se party or counsel should consult the presiding judge's courtroom deputy to determine the telephonic argument policy.

ii. The obtained hearing date, time, and place are then listed in 1) the separately-filed Notice of Hearing and 2) the motion's caption.

iii. If the moving party does not elect oral argument, the

opposing party may elect oral argument by listing the obtained hearing date, time, and place in 1) the new Notice of Hearing filed by the opposing party (with a notation that the previously-without-oral-argument hearing is now with oral argument) and 2) the response's caption.

iv. Notwithstanding the foregoing procedure, the Court has the discretion to notify the parties that oral argument is not warranted and proceed to determine any motion without oral argument.

v. Unless specially ordered, not more than fifteen (15) minutes shall be allowed for each party for oral argument on any motion.

c. If oral argument is not elected, oral argument is waived absent a motion and good cause shown.

~~(2) Parties may request oral argument in support of or in opposition to any motion. A movant who desires to be heard orally shall endorse the request in the caption of the motion. If no such request is made, the opposing party may file a request for oral argument with his statement in opposition to the motion. If the opponent makes no such request, movant may request oral argument within 5 days after service of the statement in opposition. Without such a request, oral argument is waived~~.

~~(3) Notwithstanding the foregoing procedure, the Court may in its discretion determine that oral argument is not warranted and proceed to determine any motion brought under this rule without oral presentation.~~

~~(4) Unless specially ordered, not more than fifteen (15) minutes shall be allowed each party for oral argument on any motion.~~

~~(5) A failure to timely file a memorandum of points and authorities in support of or in opposition to any motion may be considered by the Court as consent on the part of the party failing to file such memorandum to the entry of an Order adverse to the party in default.~~

~~(6) The Court sua sponte or on the written request of any party, may waive the time requirements of this rule and grant an immediate hearing on any emergency matter. The request shall set forth in detail the reasons for an expedited~~

~~hearing~~

LR 83.2, title amended to clarify contents of the rule. *(Amended wording underlined)*

BAR ADMISSION <u>AND APPEARANCE(S) IN A CASE</u>

TIME COMPUTATIONS: Various Local Rules (see summary below) have been modified to conform to new Federal Rule Time Computations:

Time computations in Federal Rules will change December 1, 2009. The changes are as a result of a major project to make all federal rules on calculating time periods simpler, clearer, and consistent. The Local Rules were amended to incorporate the new Federal Rule time computations. Following is a summary of the Local Rules that were amended to conform to the new federal rule time computations.

- A 10-day period that was effectively 14 days (because two weekends were excluded) was lengthened to 14 days.

- A 5-day period that was effectively 7 days (because one weekend was excluded) was lengthened to 7 days.

- Periods of less than 30 days were revised to be multiples of 7 days.

LR 3.2 Rico Case Statement	Rico Case Statement filed within ~~10~~ 14 days of filing/serving the pleading containing claims
LR 7.1(c) Motion Practice	Responsive Memorandum. Opposing party (non-pro se) has ~~11~~ 14 days in a civil case and ~~5~~ 7 days in a criminal case to serve and file a responsive memorandum
LR 7.1(d) Motion Practice	Reply Memorandum. Moving party (non-pro se) has ~~5~~ 7 days after service of the responsive memorandum to file a reply memorandum. If one of the parties is pro se, then the moving party has ~~10~~ 14 days after service of a responsive memorandum to file a reply memorandum.
LR 16.1(a) Pretrial Procedure	Court's Scheduling Conference. The attorney report shall be filed within 14 days after the attorney conference, but no later than ~~10~~ 14 days before the Court's scheduling conference.
LR 16.1(b) Pretrial Procedure	Pretrial Order. All counsel and pro se parties shall confer and formulate a pretrial order, to be filed as a stipulated order no later than ~~5~~ 7 days before the conference. Should the parties fail to agree on a pretrial order, each shall prepare a proposed pretrial order, to be served and submitted to the Clerk no later than ~~5~~ 7 days before the conference. Changes in the sample Pretrial Order:

	"Other than for impeachment purposes, the only exhibits admitted at trial will be exhibits identified herein or on a supplemental list filed at least ~~15~~ 14 days before trial, . ."
	"Unless otherwise specified in a scheduling order, proposed instructions and trial memoranda shall be filed and served at least ~~5~~ 7 days prior to commencement of trial."
LR 16.2(c)(2)(a)(3) ADR	Disqualification. Within ~~5~~ 7 days of designation as a neutral under this rule, the designee and parties shall assess whether a conflict of interest exists.
LR 26.1 Attorney Conference/ Discovery Plan	The formulation of a discovery plan shall be accomplished within 14 days after the attorney conference, but no later than ~~10~~ 14 days before the Court's scheduling conference.
LR 32.1 Depositions at Trial	A copy of depositions shall be served upon opposing party no later than ~~10~~ 14 days before the pretrial conference. Objections and counter-designations by the opposing party shall be served no later than ~~5~~ 7 days before the pretrial conference.
LR 37.1(b) Discovery Motions	Obligation to Confer. At least ~~10~~ 14 days before the date of the hearing, the parties shall file a statement setting forth the matters on which they have been unable to agree.

LR 37.1(c) Discovery Motions	Time for Compliance. The party against whom an order to compel has been entered shall comply with the order with ~~10~~ 14 days after receiving notice of the Court order.
LR 47.1(a) Selection of Jurors	Examination of Jurors. Counsel shall submit to the Court proposed voir dire questions at least ~~5~~ 7 days prior to trial or at such other time as the Court may direct.
LR 51.1(c) Jury Instructions	Submission of Proposed Instructions. In jury cases, counsel for each party shall, at least ~~5~~ 7 days prior to trial, or such other time as may be fixed by the Court, file proposed instructions with the Clerk.
LR 54.1(a) Cost Bills	Verified Bill – Time for Serving. The party in whose favor a judgment is rendered, and who is entitled to claim his/her costs, shall within ~~10~~ 14 days after the entry of judgment, serve on the attorney for the adverse party and file with the Clerk a verified bill of costs. Attached to the bill of costs shall be a statement of notice to the adverse party specifying the date when such costs will be taxed, which shall not be less then ~~5~~ 7 days from the date of service of the notice.
LR 54.1(e) Cost Bills	Appeal from Decision of Clerk. An appeal from the decision of the Clerk in the taxation of costs may be taken to the Judge, by either party, by filing a motion to retax ~~upon written notice of not less than two days, served and~~ which shall be filed and served with the Clerk within ~~5~~ 7 days after the costs have been taxed by the Clerk~~, but not afterward. When taken upon notice, the~~

	~~motion to retax~~ and which shall specify the rulings of the Clerk to which the party objects. ~~excepted to, and no other will be considered on the hearing~~. The motion to retax shall be noted for hearing pursuant to LR 7.1(h)(1). ~~will be heard upon the same papers and evidence used before the Clerk.~~
LR 55.1(a) Defaults	Entry of Default. Under federal practice the Clerk enters defaults without action by the Judge. Where a party has appeared but is in default, the Clerk, upon proof of ~~10~~ 14 days' written notice to the party in default by the moving party, may enter a default.
LR 66.1(a) Receiverships	Inventories. Unless the Court otherwise orders, a receiver or similar officer, as soon as practicable after his/her appointment, and not later than ~~20~~ 21 days after he/she has taken possession of the estate, shall file an inventory of all the property and assets in his/her possession . . .
LMR 3(b) Non-Dispositive Pretrial Matters	Any party may appeal from a magistrate judge's determination made under this rule within ~~10~~ 14 days after being served with a copy of the judge's order . . .
LMR 4(c) Dispositive Pretrial and Other Matters	Any party may object to the magistrate judge's proposed findings, recommendations or report under this rule within ~~10~~ 14 days after being served with a copy thereof.

LMR 11(a) Appeals to District Judge	From Judgment in Criminal Case. An appeal from a judgment of conviction by a magistrate judge to a judge of the District Court shall be taken within ~~10~~ 14 days after entry of the judgment. Where the appellant wishes a transcript of the proceedings as above outlined, this transcript shall be ordered within ~~10~~ 14 days after filing the notice of appeal. If funding is to come from the United States under CJA, the appellant is responsible for obtaining funding approval within said ~~10~~ 14-day period.
LMR11(c) Appeals to District Judge	From Other Orders. Any party may file and serve, not later than ~~10~~ 14 days thereafter, an application for a review of the magistrate judge's action taken by the district judge having jurisdiction.
LMR (d) Appeals to District Judge	Review of Detention Order. The application for revocation or amendment of the magistrate judge's order shall be filed within ~~10~~ 14 days of the order.

■Amendments Effective March 5, 2009:

LR 1.1, Sanctions, moved to the Attorney Discipline rule, LR 83.3. Sanctions are now included in LR 83.3(i). (Deleted LR 1.1).

LR 10.1(3), General Format of Documents Presented for Filing: For clarification, added the format for attorney's signature on electronically filed documents, "s/(attorney name)."

New LR 23.1: The Court adopted a new local rule regarding Class Action Certification.

LR 23.1

CERTIFICATION OF CLASS ACTION

FED. R. CIV. P. 23(c)(1)(A) requires that if a matter is to be pursued as a class action, that determination shall be made by the court "at an early practicable time."

In order that the court may set an appropriate cut-off date for the filing of a motion for class certification, the parties shall include a suggested cut-off date in their FED. R. CIV. P. 26(f) report to the court and/or in any Scheduling Report filed with the court prior to the FED. R. CIV. P. 16 Scheduling Conference.

■**Amendments Effective July 10, 2008:**
Amendments are in italics

LR 7.1

(h) **Hearing on Motions**

(1) Any party filing a motion also shall file a notice setting the time, date and place for a hearing on a motion. *For nondispositive motions, the date of the hearing is at least thirty (30) days after filing the motion. If the motion is for dismissal or summary judgment, that is, dispositive, the date of the hearing is at least fifty (50) days after filing of the motion. These deadlines may be altered by the Court upon a showing of good cause and order of the Court.* If the movant requests oral argument, movant's counsel shall consult with opposing counsel and the presiding judge's courtroom deputy to determine an available hearing date (on or after the date calculated above) and time. Telephonic argument may be requested by out-of-town counsel, but counsel should consult the presiding judge's courtroom deputy to determine the judge's telephonic argument policy. If the movant does not request oral argument, but the opposing party later does, then the opposing party's counsel shall consult with movant's counsel and the presiding judge's courtroom deputy to determine an available hearing date (on or after the date calculated above) and time.

LMR 2

(b) All informations, indictments, citations, or other instruments on file with the Clerk which charge only *Class B* misdemeanors (including such cases transferred to this district under FED. R. CRIM. P. 20) shall upon filing with the Clerk be assigned to a magistrate judge.

(c) Payment of the sums fixed in this court's Petty Offense Bail Schedule may be accepted in lieu of appearance and as authorizing termination of the proceedings.

Absent notice to the defendant on the face of the citation or instrument, payment of said sums is considered to be an administrative forfeiture and/or civil penalty only. No other collateral consequences shall be imposed without prior

notice to the defendant.

■Amendments Effective May 27, 2008:
Amendments are in italics

LR 7.1

(c) **Responsive Memorandum**
The opposing party shall, after service, unless otherwise ordered by the Court, have eleven (11) calendar days in a civil case and five (5) days excluding weekends and holidays in a criminal case, within which to serve and file a responsive memorandum. *If the opposing party is a civil pro se litigant, the civil pro se litigant shall have thirty (30) days, after the date the dispositive motion was mailed as noted on the certificate of mailing, within which to serve and file a responsive memorandum to the dispositive motion.*

(d) **Reply Memorandum**
If no party is pro se, the moving party, unless otherwise ordered by the Court, shall have five (5) days, excluding weekends and holidays, after service of the responsive memorandum to file a reply memorandum. *If one of the parties is pro se, then the moving party shall have ten days, excluding weekends and holidays, after service of a responsive memorandum to file a reply memorandum.*

■Amendments Effective December 1, 2007:

LR 10.1(j) Policy on Privacy and Public Access to Electronic Case Files.
Amendment: Omitted LR 10.1(j) effective 12/1/07 when Fed.R.Civ.P. 5.2 and Fed.R.Crim.P. 49.1 take effect.

LR 24.1 Procedure for Notification of any Claim of Unconstitutionality.
Amendment: Omitted LR 24.1 effective 12/1/07 when Fed.R.Civ.P. 5.1 takes effect.

LR 4.1 Service of Process.
Amendment: The sentence, “Counsel should become familiar with the service-by-mail provisions of Fed.R.Civ.P. 4,” shall be revised to read: “Counsel should become familiar with the waiver of service provisions of Fed.R.Civ.P. 4(d).”

LR 30.1 Depositions.
Amendment: Omitted the local rule as it is redundant with Fed.R.Civ.P. 30(a)(2).

LR 32.1 Use of Depositions at Trial – corrected a typographical error.
Amendment: (b) Changed the word “of” to “or.”

LR 33.1 Interrogatories to Parties.
Amendment: Omitted LR 33.1(b) as it is redundant with Fed.R.Civ.P. 33(a)(1).